

WaiversFirst Name Last Name Claim Number
[REDACTED] W-19-0023

Amount OGC Received Date Assigned To Assigned Date
\$3648.55 09/17/2019 Ann Sisson 09/18/2019

EPA Decision EPA Decision Date Amount Approved Status
APPROVED 12/09/2019 \$3648.55 CLOSED

Appeal Comments

No From: Redden, Kenneth <Redden.Kenneth@epa.gov>

Sent: Monday, December 09, 2019 5:57 PM

To: [REDACTED]

Cc: Sisson, Ann <Sisson.Ann@epa.gov>; Stewart, Leonice
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Sullivan, Peter <Sullivan.Peter@epa.gov>; Schuler, Ryan
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Subject: Waiver of Debt ID M1921000004

Dear [REDACTED]:

This email is being sent in response to your request for a waiver of Debt ID M1921000004 in the amount of \$3,648.55. For the reasons set forth below, your request for a waiver is granted.

Background

The information you submitted with your waiver request shows that an administrative error occurred when you were hired in June of 2015. Specifically, both the letter you received notifying you of your selection for the position of Physical Scientist and the subsequent Notification of Personnel Action Form (SF-50) indicated that you would be covered under the "Federal Employees Retirement System-Revised Annuity Employees" (FERS-RAE) retirement plan. Under this retirement plan, contributions were deducted from your salary at the rate of 3.1%, beginning with your first paycheck in 2015 through May 10, 2019.

In May of this year, EPA's payroll provider, the U.S. Department of Interior's Interior Business Center (IBC), discovered that placing you in the FERS-RAE retirement plan at the time of hiring was erroneous. To be eligible for the FERS-RAE retirement plan, employees must have been hired on or after January 1, 2013, but before January 1, 2014. In general, employees hired after December 31, 2013 are considered "FERS-Further Revised Annuity Employees" (FERS-FRAE) and pay 4.4% into the federal retirement system, rather than the FERS-RAE rate of 3.1%. As a result of having been in the incorrect retirement plan, your deductions for retirement for roughly four years were less than what they should have

been. A retroactive correction was processed by EPA's Office of Human Resources on May 10, 2019, and IBC sent you an invoice dated July 29, 2019 in the amount of \$3,648.55.

Analysis

Under 5 U.S.C. §5584, I have the authority to waive collection of erroneous payments or allowances, if collection would be against equity and good conscience and not in the best interest of the United States, provided there is no indication of fraud, fault, misrepresentation or lack of good faith on the part of the employee. Matter of Robert L. Rancourt, 1990 U.S. Comp. Gen. LEXIS 1053 (Comp. Gen. Oct. 9, 1990). An employee is deemed to be at fault and waiver is precluded if the employee is aware or should have been aware that he or she was being overpaid. B-271308, April 18, 1996. In the present case, I find that the erroneous reduced deductions were caused by Agency administrative error in issuing your notification of selection and in processing your SF-50 appointment document. Therefore, the only issue before me is whether you knew or should have known that you were placed in the wrong retirement plan.

In my review of the documents of the record, I find that you neither knew nor reasonably could have known you were erroneously placed into the wrong retirement plan. While federal employees are expected to be familiar with the Federal Employee Retirement System (FERS), it is not expected that they would know that two new retirement systems were introduced in 2013 and 2014, with similar names, FERS-RAE and FERS-FRAE, which affected the rate of deduction, but did not otherwise change retirement eligibility or the annuity computation. The creation of these two new retirement plans occurred in the years immediately preceding your appointment, and it is reasonable for you to have relied on the Agency to place you in the correct retirement plan, particularly as an individual entering the federal service for the first time.

Accordingly, all criteria for waiver of this claim have been met, and this request for waiver is approved in the amount of \$3,648.55. By copy of this email, I am advising OCFO to work with IBC to waive repayment and to refund to you any money that was already paid by you toward this debt.

Type
Federal Employee Retirement System (FERS)

Attachments